

RESOLUTION 14-R-27 regarding Federal Transit Administration Procurement Procedures.

WHEREAS, it is and has been the policy of the City that all procurements funded with Federal Transit Administration monies comply with Federal Transit Administration regulations as set forth in the Federal Transit Administration Procurement Procedures; and,


WHEREAS, it is appropriate to explicitly adopt the Federal Transit Procurement Procedures as applicable to City procurements.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. The Federal Transit Procurement Procedures attached hereto as Exhibit A, and as the same may be hereafter amended, are hereby adopted as applicable for all procurements funded with Federal Transit Administration monies. If the City's procurement code conflicts with such federal regulations, the more restrictive of the two polices shall be followed.

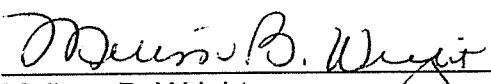
SECTION 2. This Resolution shall be effective immediately, the public welfare and the welfare of the City requiring it.

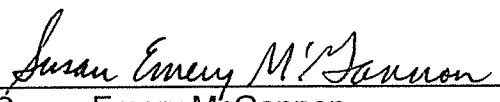
Passed: November 13, 2014


Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:


Melissa B. Wright
City Recorder


Susan Emery McGannon
City Attorney

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
following Procurement System Requirements

Written Standards of Conduct

Basic Requirement: Chapter III, Section 1 (a)(b)(c) of FTA Circular 4220.1F requires that City of Murfreesboro maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. The section also addresses potential conflicts, solicitation and acceptance of gifts, penalties and sanctions.

Contract Administration System

Basic Requirement: Chapter, III, 3. FTA C4220.1F The Common Grant Rules require the recipient to maintain a contract administration system to ensure that it and its third party contractors comply with the terms, conditions, and specifications of their contracts or purchase orders and applicable Federal, State, and local responsibilities.

For sealed bid procurements and competitive negotiations, consider including as standard practice in the contract administration file the following:

- The executed contract and notice of award;
- Performance and payment bonds, bond-related documentation, and correspondence with any sureties;
- Contract-required insurance documentation;
- Post-award (pre-performance) correspondence from or to the contractor or other Government agencies;
- Notice to proceed;
- Approvals or disapprovals of contract submittals required by the contract and requests for waivers or deviations from contractual requirements;
- Modifications/changes to the contracts including the rationale for the change, change orders issued, and documentation reflecting any time and or increases to or decreases from the contract price as a result of those modifications;
- Documentation regarding settlement of claims and disputes including, as appropriate, results of audit and legal reviews of the claims and approval by the proper authority (i.e., city council, board of directors, executive director) of the settlement amount;
- Documentation regarding stop work and suspension of work orders and termination actions (convenience as well as default); and
- Documentation relating to contract closeout.

For an effective Contract Administration System the following planning process should be followed:

City of Murfreesboro Federal Transit Administration Procurement Procedures

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1. Determine the required level of contract surveillance
2. Determine what contract administration functions (if any) will be delegated
3. Delegate contract administration as applicable
4. Develop a contract administration plan
5. Identify qualified personnel (as authorized and necessary) to represent the Contracting Officer in administering contract requirements

Implementing a central contract administration and management function will ensure improved management of contractor performance.

Written Protest Procedures

Basic Requirement: Chapter VII, Section 1(a) and (b) of FTA C 4220.1F requires that City of Murfreesboro have written protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding protests to FTA. All protest decisions must be in writing. A protester must exhaust all administrative remedies with the City of Murfreesboro before pursuing a protest with FTA.

Pre-Qualification System

Basic Requirement: Chapter VI, Section 1 (c) of FTA C 4220.1F states that City of Murfreesboro may prequalify people, firms, or products for participation in procurements provided that:

- Lists used in acquiring property and services are current;
- Lists include enough qualified sources to ensure maximum full and open competition;
- The recipient permits potential bidders or proposer to qualify during the solicitation period (from the issuance of the solicitation to its closing date), as set forth in the Common Grant Rule for governmental recipients. Evaluations for prequalification, however, need not be accelerated or truncated. FTA does not require a recipient to hold a particular solicitation open to accommodate a potential bidder or proposer that submits a person, firm, or product for approval before or during that solicitation

System for Ensuring Most Efficient and Economic Purchase

Basic Requirement: Chapter IV, Section 1(b) of FTA C 4220.1F requires that City of Murfreesboro procedures provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Ensuring an economic purchase could include breaking out or combining purchases, or using annual contracts. Also lease versus buy analyses are required for applicable purchases to ensure the most economical approach.

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
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Procurement Policies and Procedures

Basic Requirement: Chapter III, Section 3(a) of FTA C 4220.1F requires that City of Murfreesboro and sub-City of Murfreesboro use their own procurement procedures that reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law, including the requirements and standards identified in 4220.1F.

Independent Cost Estimates

Basic Requirement: Chapter VI, Section 6 of FTA C 4220.1F requires that: "perform a cost analysis or price analysis in connection with every procurement action ... as a starting point, City of Murfreesboro must make independent estimates before receiving bids or proposals." Establishing a cost estimate in advance of the offer using a method independent from the perspective of offerors ensures a clear basis for analysis of cost or price, and provides essential procurement and financial planning information. Independent cost estimates are made by qualified engineering and functional staff who have first-hand knowledge of the commodity or service being purchased. The cost estimate is developed based on product knowledge, experience, and market status, and is used in performing price and cost analysis. The ICE is a tool to assist in the determination of the reasonableness or unreasonableness of a bid or proposal being evaluated. Independent cost estimates can range from a simple budgetary estimate to a complex estimate based on inspection of the product itself and review of items like drawings, specifications and prior data. The independent cost estimate is especially critical whenever there is no price competition (e.g., for architect-engineer procurements where only one price proposal is received), or where offerors are submitting price proposals for goods or services that are not exactly comparable (e.g., for procurements of high-technology items or professional services). It is also useful in competitive procurements to alert the agency when all competitors are submitting unreasonably high cost proposals.

A & E Geographic Preferences

Basic Requirement: Chapter VI, Section 2(a)(4)(g) of FTA C 4220.1F states that geographic location may be a selection criterion for A&E services if "an appropriate number of qualified firms are eligible to compete for the contract in view of the nature and size of the project."

Unreasonable Qualification Requirements

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
following Procurement System Requirements

Basic Requirement: Chapter VI, Section 2(a)(4) (a) of FTA C 4220.1F indicates that unreasonable requirements placed on firms in order for them to qualify to do business are considered to be restrictive of competition.

Unnecessary Experience and Excessive Bonding

Basic Requirement: Chapter VI, Section 2.a (4) (e) of FTA C 4220.1F and BPPM 8.2 state that unnecessary experience and excessive bonding requirements are considered to be restrictive of competition.

Organizational Conflict of Interest

Basic Requirement: Chapter VI, Section 2(a)(4)(h) of FTA C 4220.1F states that an organizational conflict of interest is considered to be restrictive of competition. An organizational conflict of interest exists if:

- Because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice;
- A contractor's objectivity in performing the contract work is or might be otherwise impaired; or
- A contractor has an unfair competitive advantage.

Arbitrary Action

Basic Requirement: Chapter VI, Section 2(a)(4)(j) of FTA C 4220.1F indicates that any arbitrary action in the procurement process is considered to be restrictive of competition. Proper file documentation can help evaluate whether or not an arbitrary action occurred.

Brand Name Restrictions

Basic Requirement: Chapter VI, Section 2(a)(3) and (a)(4)(f) of FTA C 4220.1F indicates that specifying only a “brand name” product instead of allowing “an equal” product to be offered without listing its salient characteristics is considered to be restrictive of competition.

Geographic Preferences

Basic Requirement: Chapter VI, Section 2(a)(4)(g) of FTA C 4220.1F requires that City of Murfreesboro conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the

City of Murfreesboro Federal Transit Administration Procurement Procedures

City of Murfreesboro Federal Transit Administration purchases will follow the following Procurement System Requirements

evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.

Contract Term Limitation

Basic Requirement: Chapter IV, Section 2(e)(10) of FTA C 4220.1F requires that City of Murfreesboro do not enter into any contract for rolling stock and replacement parts with a period of performance exceeding five (5) years inclusive of options. This promotes competition and effective contract management. In all other cases FTA requires City of Murfreesboro to exercise "sound business judgment," and "to establish contract terms no longer than necessary to accomplish the purpose of the contract."

Written Procurement Selection Procedures

Basic Requirement: Chapter III, Section 3(a) of FTA C 4220.1F requires that City of Murfreesboro have written selection procedures for procurement transactions. "All solicitations shall identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids or proposals." The solicitation and resulting contract must identify those Federal requirements that will affect contract scope and performance. This ensures procurements are awarded in a fair and equitable manner.

Solicitation Pre-Qualification Criteria

Basic Requirement: Chapter VI, Section 1(c)(1), (2), and (3) of FTA C 4220.1F requires that:

- Lists of prequalified persons, firms, or products that are used in acquiring goods and services must be current and include enough qualified sources to ensure maximum full and open competition.
- The process shall not preclude potential bidders from qualifying during the solicitation period.

Award to Responsible Contractors

Basic Requirement: Chapter VI, Section 8(b) of FTA C 4220.1F requires that City of Murfreesboro make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Responsibility may be affected by new information up to the time of contract award. Responsibility determination factors include whether the prospective contractor has:

- The appropriate financial, material, equipment, facility and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements;

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
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- The capability to comply with the required delivery schedule considering all their existing business commitments;
- A satisfactory record of performance;
- A satisfactory record of integrity;
- Legal qualification to contract with City of Murfreesboro; and supplied all necessary information in connection with the inquiry concerning responsibility.

Sound and Complete Agreement

Basic Requirement: Chapter III, Section 3(b) of FTA C 4220.1F requires that all contracts include provisions to define a sound and complete agreement. It should include proper specifications that allow for administrative, contractual, termination and legal remedies.

No Splitting [Micro-Purchases]

Basic Requirement: Chapter VI, Section 3(a)(2)(b) of FTA C 4220.1F indicates that micro-purchases are those purchases under \$3,000. Micro-purchases requirements follow these guidelines:

- May be made without obtaining competitive quotations.
- There should be equitable distribution among qualified suppliers and no splitting of procurements to avoid competition.
- Document that the price is fair and reasonable and how this determination was derived.

Fair and Reasonable Price Determination [Micro-Purchases]

Basic Requirement: Chapter VI, Section 3(a)(2)(c) of FTA C 4220.1F indicates that micro-purchases are those purchases under \$3,000. Micro-purchases requirements follow these guidelines:

- May be made without obtaining competitive quotations.
- There should be equitable distribution among qualified suppliers and no splitting of procurements to avoid competition.
- Document that the price is fair and reasonable and how this determination was derived.

Micro-Purchase Davis Bacon

Basic Requirement: Chapter VI, Section 3(a)(1) of FTA C 4220.1F indicates that Davis-Bacon prevailing wage and hour restrictions apply to construction contracts exceeding \$2,000.

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
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Price Quotations [Small Purchases]

Basic Requirement: Chapter VI, Section 3(b)(2) of FTA C 4220.1F defines small purchase procedures as those relatively simple and informal procurement methods for securing services, supplies, or other property that cost more than \$3,000, but do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. § 403(11) (currently set at \$100,000). It also indicates that price or rate quotations shall be obtained from an adequate number of qualified sources.

Clear, Accurate, and Complete Specification

Basic Requirement: Chapter III, Section 3(a)(1)(a), (b), and (d) of FTA C 4220.1F requires that City of Murfreesboro have a clear and accurate description of the technical requirements for the material, product, or service to be procured. Complete and accurate specifications are required to ensure that all potential bidders are given equal knowledge on City of Murfreesboro's requirements

Adequate Competition- Two or More Competitors

Basic Requirement: Chapter VI, Section 3(i)(1)(a) and (i)(1)(b)(2) of FTA C 4220.1F indicates that adequate competition exist when two or more responsible bidders are willing and able to compete effectively for the business.

Firm Fixed Price [Sealed Bid]

Basic Requirement: Chapter VI, Section 3(c)(1)(c) of FTA C 4220.1F indicates that the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

Selection on Price [Sealed Bid]

Basic Requirement: Chapter VI, Section 3(c)(1)(d) of FTA C 4220.1F indicates that the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

Discussion Unnecessary [Sealed Bid]

Basic Requirement: Chapter VI, Section 3(c)(1)(e) of FTA C 4220.1F indicates that the sealed bid method of procurement is appropriate when no discussion with bidders is needed.

Advertised/Publicized

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
following Procurement System Requirements

Basic Requirement: Chapter VI, Section 3(c)(2)(a) of FTA C 4220.1F requires that the invitation for bids be publicly advertised and that bids be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids.

Adequate Number of Sources Solicited

Basic Requirement: Chapter VI, Section 3(c)(2)(b) of FTA C 4220.1F requires that proposals are solicited from an adequate number of qualified sources and RFPs are publicized.

Sufficient Bid Time [Sealed Bid]

Basic Requirement: Chapter VI, Section 3(c)(2)(d) of FTA C 4220.1F requires that the invitation for bids are publicly advertised and bids are solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids.

Bid Opening [Sealed Bid]

Basic Requirement: Chapter VI, Section 3(c)(2)(e) of FTA C 4220.1F requires that all bids be publicly opened at the time and place prescribed in the invitation for bids. An important part of this process is that bids remain sealed until bid opening. Also, it is important that there is proper notation of the time and receipt of the bid to ensure that all bids are eligible for consideration. This ensures fairness in the competitive process.

Responsiveness [Sealed Bid]

Basic Requirement: Chapter VI, Section 3(c)(2)(f) of FTA C 4220.1F indicates that a firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder.

A responsive bidder is a bidder who responds to the requirements of the solicitation. Responsiveness is a fairly objective concept and is ascertainable at the time of bid opening. Requiring strict responsiveness enables bidders to stand on equal footing and maintains the integrity of the sealed bid system

Lowest Bid [Sealed Bid]

Basic Requirement: Chapter VI, Section 3(c)(2)(f) of FTA C 4220.1F requires that bidding documents specify the factors, such as discounts, transportation costs, and life cycle costs that will be considered in determining which bid was lowest. The City of Murfreesboro is thus obliged to review lowest total cost when awarding on low price, if the aspects of this type of evaluation were specified in the solicitation.

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
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Rejecting Bids [Sealed Bid]

Basic Requirement: Section 9(c)(2)(e) of FTA Circular 4220.1E, states that “any or all bids may be rejected if there is a sound documented business reason.” Reasons for possible bid rejection include lack of responsiveness to the solicitation and lack of responsibility of the offeror.

Chapter VI, Section 3.c (2)(g) of FTA C 4220.1F indicates that any or all bids may be rejected if there is a sound documented business reason.

Evaluation [RFP]

Basic Requirement: Chapter VI, Section 3.d.(2)(b) of FTA C 4220.1F requires that:

- All evaluation factors are identified along with their relative importance;
- City of Murfreesboro has a method in place for conducting technical evaluations of the proposals received and for selecting awardees.

Price and Other Factors [RFP]

Basic Requirement: Chapter VI, Section 3(d)(2)(e) of FTA C 4220.1F requires that awards be made to the firm whose proposal is most advantageous to the City of Murfreesboro's program with price and other factors considered. City of Murfreesboro may award to the proposer whose proposals offer the greatest business value to the Agency based upon an analysis of a tradeoff of qualitative technical factors and price/cost to derive which proposal represents the “best value.” “Best value” language must be in the solicitation.

Sole Source If Other Award Is Inadequate

Basic Requirement: Chapter VI, Section 3(i)(1)(b) of FTA C 4220.1F allows for procurements by non-competitive proposal only when the contract award is inadequate under other procurement methods and at least one of the conditions outlined below exists:

1. Item or service is only available from a single source;
2. Public exigency or emergency for the requirement will permit a delay from competitive bidding;
3. FTA authorizes non-competitive negotiations; or
4. Competition is deemed inadequate.

Title 49 U.S.C., Paragraph 5307(a)(1) defines such a capital maintenance item as one that is procured directly from the original manufacturer or supplier of the item to be replaced and the City of Murfreesboro first certified in writing to the FTA: (i) that such manufacturer or supplier is the only source for such item; and (ii) that the price of such item is no higher than the price paid for such item by like customers.

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
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Cost Analysis Required [Sole Source]

Basic Requirement: Chapter VI, Section 6(a) of FTA Circular 4220.1F confirms that a cost analysis must be obtained when the offeror submits elements (labor hours, overhead, materials, etc.), when the price competition is inadequate, when there is only a sole source available, or when an order is changed. The recipient is not obligated to obtain a cost analysis where price reasonableness of the proposed contracts can be justified on the basis of a catalog or market price of a commercial product sold in large quantities to the general public, or where law or regulation have established price.

Evaluation of Options

Basic Requirement: Chapter VI, Section 7(b) of FTA C 4220.1F requires that the option quantities or periods contained in the contractor's bid or offer are evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options will be considered sole source procurement.

Cost or Price Analysis

Basic Requirement: Chapter VI, Section 6.a.b.c. of FTA C 4220.1F requires that City of Murfreesboro perform a cost or price analysis in connection with every procurement action, including contract modifications.

Written Record of Procurement History

Basic Requirement: Chapter III, Section 3(d)(1) of FTA C 4220.1F requires that City of Murfreesboro maintain records detailing the history of each procurement. The basis for contract price requirement applies to all procurements except micro-purchases. At a minimum, the following must be included in the record:

- The rationale for the method of procurement;
- Selection of contract type;
- Reasons for contractor selection or rejection;

Where appropriate, the procurement documentation file should contain:

- Purchase request, acquisition planning information, other pre-solicitation documents,
- Evidence of availability of funds,
- Rationale for the method of procurement (negotiations, formal advertising),
- List of sources solicited,
- Independent Cost Estimate,
- Statement of Work/ Scope of services,

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
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- Copies of published notices of proposed contract action,
- Copy of the solicitation, all addenda, and all amendments,
- Liquidated damages determination,
- An abstract of each offer or quote,
- Contractor's contingent fee representations and other certifications and representations,
- Source selection documentation, if applicable,
- Contracting Officer's determination of contractor responsiveness and responsibility,
- Cost or pricing data,
- Determination that price is fair and reasonable, including an analysis of the cost and pricing data,
- Required internal approvals for award,
- Notice of award,
- Notice to unsuccessful quoters or offerors and record of any debriefing,
- Record of any protest,
- Bid, Performance, Payment, or other bond documents, and notices to sureties,
- Required insurance documents, if any,
- Notice to proceed, and
- Negotiation Memorandum.

Exercise of Options

Basic Requirement: Chapter V, Section 7.a. (1) (a)(b)(c) 2 of FTA C 4220.1F requires that the exercise of an option is in accordance with the terms and conditions of the option stated in the initial contract awarded.

- An option may not be exercised unless it is determined that the option price is better than prices available at the time the option is exercised.

Out of Scope Changes

Basic Requirement: Chapter VI, Section 3(i)(1)(b) of FTA C 4220.1F indicates that a contract change that is not within the scope of the original contract is considered a sole source procurement. The City of Murfreesboro must justify why an amendment was the

City of Murfreesboro Federal Transit Administration Procurement Procedures

City of Murfreesboro Federal Transit Administration purchases will follow the following Procurement System Requirements

only feasible course of action, and must comply with FTA requirements for cost analysis and profit negotiation.

Advance Payments

Basic Requirement: Chapter IV, Section 2.b (5)(b) of FTA C 4220.1F indicates that FTA does not authorize and will not participate in funding payments to a contractor prior to the incurrence of costs by the contractor unless prior written concurrence is obtained from FTA.

Progress Payments

Basic Requirement: Chapter IV, Section 2.b. (5) (c) of FTA C 4220.1F indicates that progress payments are allowed if:

- 1) They are only made to the contractor for costs incurred in the performance of the contract.
- 2) Adequate security is obtained (such as taking title, letter of credit or equivalent means)

Time and Materials Contracts

Basic Requirement: Chapter VI, Section 2.c. (2) (c) of FTA C 4220.1F indicates that Time and Materials Contracts should be used only:

- After a determination that no other type of contract is suitable
- If the contract specifies a ceiling price that the contractor shall not exceed except at its own risk.

Cost Plus Percentage of Cost

Basic Requirement: Chapter VI, Section 2(c)(2) (a) of FTA C 4220.1F indicates that the cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

Liquidated Damages Provisions

Basic Requirement: Chapter IV, Section 2(b)(6)(b)(1) of FTA C 4220.1F indicates that City of Murfreesboro may use liquidated damages if it may reasonably expect to suffer damages and the extent or amount of such damages would be difficult or impossible to determine. In addition, the assessment for damages shall be at a specific rate per day for each day of the overrun in contract time. The rate must be pre-determined and specified in the third party contract.

Piggybacking

City of Murfreesboro Federal Transit Administration Procurement Procedures

City of Murfreesboro Federal Transit Administration purchases will follow the following Procurement System Requirements

Basic Requirement: Chapter V, Section 7(a)(2) of FTA C 4220.1F defines Piggybacking as an assignment of existing contract rights to purchase supplies, equipment, or services. City of Murfreesboro piggybacking on another agency's contract must ensure that the original contract contained an assignability clause and that the terms and conditions of that contract meet the FTA requirements.

Qualifications Exclude Price [A & E]

Basic Requirement: Chapter VI, Section 3(f)(3)(b) of FTA C 4220.1F indicates that qualifications-based competitive proposal procedures require that:

- 1) An offeror's qualifications be evaluated
- 2) Price be excluded as an evaluation factor

Serial Price Negotiations [A&E]

Basic Requirement: Chapter VI, Section 3(f)(3)(d) of FTA C 4220.1F indicates that:

- Negotiations be conducted with only the most qualified offeror
- Failing agreement on price, negotiations with the next most qualified offeror are conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the City of Murfreesboro.

Bid Guarantee [Construction over \$100,000]

Basic Requirement: Chapter IV, Section 2.i.(1)(a) of FTA C 4220.1F requires that the Bid Security:

- Equal five (5) percent of the bid price.
- Firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will execute contractual documents as may be required within the time specified.

Performance Bond [Construction over \$100,000]

Basic Requirement: Chapter IV, Section 2.i.(1)(b) of FTA C 4220.1F requires that the Performance Security:

- Is executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract;
- Amount is equal to 100 percent of the contract price.

Payment Bond [Construction over \$100,000]

Basic Requirement: Chapter IV, Section 2.i.(1)(c) of FTA C 4220.1F requires that the Payment Security:

- Assures payment of all persons supplying labor and material.
- Includes required amounts as follows:

City of Murfreesboro Federal Transit Administration Procurement Procedures

City of Murfreesboro Federal Transit Administration purchases will follow the following Procurement System Requirements

- 1) Fifty percent of the contract price if the contract price is not more than \$1 million;
- 2) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- 3) Two and a half million dollars if the contract price is more than \$5 million.

Clauses

Basic Requirement: Chapter IV, Section 2 and Appendix D of FTA C 4220.1F indicate that:

- A current but not all inclusive and comprehensive list of statutory and regulatory requirements applicable to City of Murfreesboro procurements (such as Davis-Bacon Act, Disadvantaged Business Enterprise, Clean Air, and Buy America) is contained in the FTA Master Agreement.
- City of Murfreesboro is responsible for evaluating these requirements for relevance and applicability to each procurement.

It is not acceptable to simply reference the Master Agreement/C4220.1F and leave contractors the responsibility to decide which statutes and regulations apply to that particular contract (note that many may not apply). City of Murfreesboro cannot avoid the responsibility for determining which requirements apply (e.g., Buy America) and so stating in their solicitations and contracts with suitable contract language, as well as representations and certifications. We would also note that FTA evaluates City of Murfreesboro contract clauses as part of their Procurement System Reviews (PSRs), and a failure to include the specific contract clauses would be cited as a deficiency that would be unacceptable to FTA. Finally, we would add that certain statutory requirements such as Buy America, if not included in the contract, would result in FTA not funding that contract.

SAM (formerly EPLS) Debarment/suspension

Basic Requirement: Chapter IV, 2.a(2)(b) C4220.1F, Even though the recipient may collect a debarment and suspension certification from the prospective third party contractor, or include a clause in the third party contract requiring disclosure, FTA strongly recommends that the recipient check the Excluded Parties List System (EPLS). Now a part of the System for Awards Management (SAM), the EPLS is an electronic, web-based system that identifies those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

Disputes/Breach

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
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Basic Requirement: Chapter VII, 3.a. & 4.a. C4220.1F, Third party contracts exceeding \$100,000 must include administrative, contractual, or legal remedies for violations or breach of the contract by the third party contractor. The Common Grant Rules assign responsibility to the recipient for resolving all contractual and administrative issues arising out of their third party procurements, including source evaluation and selection, including protests of awards, disputes, and claims using good administrative practices and sound business judgment.

Terminations

Basic Requirement: Chapter IV, 2.b(6)(b) 4 C4220.1F, The Common Grant Rule for non-governmental recipients requires administrative, contractual, or legal contract remedies in instances in which a contractor violates or breaches terms of a contract that exceeds the small purchase threshold, which FTA recognizes as the simplified acquisition threshold. Termination for cause and termination for convenience provisions must be included in contracts exceeding \$10,000.

Disadvantaged Business Enterprise (DBE)

Basic Requirement: Chapter IV, 2.a.(6)(a), Section 1101 (b) of MAP-21, 23 U.S.C. Section 101 note, extends the Federal statutory requirements that FTA make available at least 10 percent of its funding under that Act for contracts with small business concerns owned and controlled by socially and economically disadvantaged people. Each FTA recipient and sub-recipient of FTA funding assists FTA in meeting this national goal. To receive FTA assistance, each FTA recipient and sub-recipient of FTA funding must comply with applicable requirements of DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 CFR Part 26.

Buy America Pre-Award Review – (Steel or manufactured products)

(a) Except as provided in § 661.7 and § 661.11 of this part, no funds may be obligated by FTA for a City of Murfreesboro project unless all iron, steel, and manufactured products used in the project are produced in the United States.

(b) All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

(c) The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.

(d) For a manufactured product to be considered produced in the United States:

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
following Procurement System Requirements

- (1) All of the manufacturing processes for the product must take place in the United States; and
- (2) All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

Pre-Award Review / Post-Delivery Review

Basic Requirement: A recipient purchasing revenue service rolling stock with FTA funds must ensure that a **pre-award audit** under this part is complete before the recipient enters into a formal contract for the purchase of such rolling stock.

(a) *A pre-award audit under this part includes:*

- (1) *A Buy America certification as described in Sec. 663.25 of this part;*
- (2) *A purchaser's requirements certification as described in Sec. 663.27 of this part;*
and
- (3) *Where appropriate, a manufacturer's Federal Motor Vehicle Safety certification information as described in Sec. 663.41 or Sec. 663.43 of this part.*

49 C.F.R. 663

Basic Requirement: A recipient purchasing revenue service rolling stock with FTA funds must ensure that a **post-delivery audit** under this part is complete before title to the rolling stock is transferred to the recipient.

(a) *A post-delivery audit under this part includes:*

- (1) *A post-delivery Buy America certification as described in Sec. 663.35 of this part;*
- (2) *A post-delivery purchaser's requirements certification as described in Sec. 663.37 of this part; and*
- (3) *When appropriate, a manufacturer's Federal Motor Vehicle Safety Standard self-certification information as described in Sec. 663.41 or Sec. 663.43 of this part.*

49 C.F.R. 663

Brooks Act/Qualifications-Based procurements

Basic Requirement: Chapter IV, 2.h.(1); (2)(a) C4220.1F For projects related to or leading to construction, an FTA recipient must use the qualifications-based procurement procedures of 40 U.S.C. Chapter 11 ("Brooks Act" procedures) when contracting for A&E services and other services described in 49 U.S.C. Section 5325(b), which include program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services.

Design-Bid-Build

Basic Requirement: Chapter VI, Section 3.g. A construction project under which a recipient commissions an architect or engineer to prepare drawings and specifications

City of Murfreesboro Federal Transit Administration Procurement Procedures

City of Murfreesboro Federal Transit Administration purchases will follow the following Procurement System Requirements

under a design services contract, and separately contracts for construction, by engaging the services of a contractor through sealed bidding or competitive negotiations to complete delivery of the project. The design-bid-build procurement method requires separate contracts for design services and for construction.

- (1) Design Services. For design services, the recipient must use qualifications-based procurement procedures, in compliance with applicable Federal, State and local law and regulations.
- (2) Construction. Because the recipient may not use qualifications-based procurement procedures for the actual construction, alteration or repair of real property, the recipient generally must use competitive procedures for the construction. These may include sealed bidding or competitive negotiation procurement methods, as appropriate.

Design-Build

As defined in 49 U.S.C. Section 5325(d)(1), means (1) a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system, or an operable segment of such system, that conforms to specific performance criteria; and (2) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment. Apart from the definition at 49 U.S.C. Section 5325(d)(1), a "design-build project" also means a construction project under which a recipient enters into a contract with a seller, firm, or consortium of firms both to design and construct a public transportation facility that is the subject of the project.

Cardinal Changes (Tag Ons)

Basic Requirement: Chapter V, Section 7. b.(2) A significant change in contract work (property or services) that causes a major deviation from the original purpose of the work or the intended method of achievement, or causes a revision of contract work so extensive, significant, or cumulative that, in effect, the contractor is required to perform very different work from that described in the original contract, is a cardinal change. Such practices are sometimes informally referred to as "tag-ons." A change within the scope of the contract (sometimes referred to as an "in-scope" change) is not a "tag-on" or cardinal change.

Federal Cost Principles

Basic Requirement: Chapter IV, Section 2.b.(4) C4220.1F The Common Grant Rules require project costs to conform to applicable Federal cost principles for allowable costs. In general, costs must be necessary and reasonable, allocable to the project, authorized

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
following Procurement System Requirements

or not prohibited by Federal law or regulation, and must comply with Federal cost principles applicable to the recipient

Chapter IV, Section 4 C4220.1F states FTA assistance may support contract costs or prices based on estimated costs only if the costs incurred or cost estimates included in negotiated prices comply with applicable Federal cost principles, and the property or services are eligible for Federal assistance under the terms of the underlying grant or cooperative agreement.

Revenue Contracts

Basic Requirement: Chapter II, Section 2.(4) of FTA C 4220.1F states a revenue contract is a contract in which the recipient or subrecipient provides access to public transportation assets for the primary purpose of either producing revenues in connection with an activity related to public transportation, or creating business opportunities with the use of FTA assisted property. All revenue generating contracts will be competitively solicited and will not exceed a term of five years unless FTA permits a longer term.

Signature Authority

Oversight of Sub-Recipients

All direct recipients of FTA grants, grant amendments, and cooperative agreements in excess of \$25,0000 are subject to the requirements of the Federal Funding Accountability and Transparency Act of 2006 ("FFATA"). The City of Murfreesboro shall submit sub-recipients' sub-award information to the FFATA Sub-award Reporting System at the end of the month after the month

As a Designated Recipient, the City of Murfreesboro is responsible for the routine monitoring of sub-recipients.

The City of Murfreesboro shall be responsible for the following:

- a. Applying for and receiving FTA grants on behalf of its Grant 5307 sub-recipients and performing on-going project management;
- b. All direct recipients of FTA grants, grant amendments, and cooperative agreements in excess of \$25,0000 are subject to the requirements of the Federal Funding Accountability and Transparency Act of 2006 ("FFATA"). The City of Murfreesboro shall submit sub-recipients' sub-award information to the FFATA Sub-award Reporting System at the end of the month after the month in

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
following Procurement System Requirements

which any sub-award under the grant has been made and not the month after which FTA awarded the direct grant;

- c. Ensuring adherence to federal program guidelines through contractual agreements with all sub-recipient;
- d. Receiving, verifying, and submitting for reimbursements from the FTA for all eligible project expenses;
- e. Passing through the reimbursements received from FTA for all eligible project expenses;
- f. Receiving financial and status reports from all sub-recipients;
- g. Completing financial and progress status reports in the FTA electronic grants management system (TEAM); and
- h. Other such grant administrative actions as necessary to ensure project completion in accordance with all applicable federal rules, regulations, and guidance.

As a Designated Recipient of FTA Grant 5307 funds, the City of Murfreesboro and its sub-recipients or partners are responsible for establishing and maintaining adequate internal controls over all functions which affect the implementation of a project utilizing such funds.

For proper management of the projects, each sub-recipient shall utilize internal controls in all of its operating, accounting, financial, and administrative systems. To assure proper accountability for grant or cooperative agreement funds, internal controls shall be integrated with the management systems used by the recipient to regulate and guide its operations.

Resources shall be used in accordance with all applicable state, local, and Federal laws, regulations, and policies, as well as the terms of the grant or cooperative agreement. Resources shall be safeguarded against waste, loss, and misuse. In addition, reliable data on resource use and safeguards must be accumulated, maintained, and fairly disclosed in reports to the Designated Recipient manager and FTA.

The City of Murfreesboro shall be responsible for monitoring sub-recipients no less than once per contract year and more often, should it be necessary. The City of Murfreesboro shall assist any of its sub-recipients in setting up the monitoring in order to ensure adherence to FTA guidelines.

City of Murfreesboro Federal Transit Administration Procurement Procedures
City of Murfreesboro Federal Transit Administration purchases will follow the
following Procurement System Requirements

The City of Murfreesboro's annual monitoring shall include a physical site visit to the location where the sub-recipient maintains its project records. The timing of the site visit shall occur six months from the beginning of any contract and occur at annual intervals while the contract is in force. Any deficiencies noted will result in more frequent inspections or the implementation of a corrective action plan until the deficiencies have been resolved.

Procedures for monitoring sub-recipients shall include:

- a. Review of operation of project for scope of work accuracy and efficiency.
- b. Review of the filing system, the system maintenance, and presence of grant information.
- c. Review of the grant matching documentation.
- d. Review of the sub-recipients Drug and Alcohol Policy.
- e. Review of the sub-recipients Title VI Plan and access, if there are current complaints.
- f. Review of marketing efforts associated with the project.

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

Independent Cost Estimate

Contract Type:

Date of Estimate:

Description of Goods / Service:

Method of Obtaining the Estimate:

I have obtained the following estimate from....

- ☐ Published Price List / Past pricing (date)_____
- ☐ Engineering or technical estimate
- ☐ Independent Third Party estimate
- ☐ Other (specify)_____

Cost Estimate Details:

Through the method stated above it has been determined that the total cost of the goods/services is expected to be: \$_____. Details are shown below.

A

Cost of Standard Items			
Product	Cost (\$/ea)	Cost (\$/ea)	Notes / Data Source
	Delivered	No Freight	

B

Cost of Services, Repairs, or Non-Standard Items							
Item / Task:							
	Other Direct Costs	Labor (rate, hours)	Labor Class	Allocated overhead	SG&A	Profit	Total

Signature of Preparer:

The preceding cost estimate was obtained or prepared by: _____

[For complex items or tasks, attach detailed spreadsheet(s) explaining rationale.]

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

Responsibility Determination Form

Bid/RFP No: _____

Supplier: _____

Date: _____

For each of the areas described below, check that the appropriate research has been accomplished and provide a short description of the research and the results.

	Acceptable	Comment
1. Appropriate financial, equipment, facility, and personnel	<input type="checkbox"/> Yes <input type="checkbox"/> No	<div></div> <div></div> <div></div> <div></div>
2. Ability to meet the delivery schedule	<input type="checkbox"/> Yes <input type="checkbox"/> No	<div></div> <div></div> <div></div> <div></div>
3. Satisfactory period of performance	<input type="checkbox"/> Yes <input type="checkbox"/> No	<div></div> <div></div> <div></div> <div></div>
4. Satisfactory record of integrity, not on debarred or suspended listings	<input type="checkbox"/> Yes <input type="checkbox"/> No	<div></div> <div></div> <div></div> <div></div>
5. Receipt of all necessary data from supplier	<input type="checkbox"/> Yes <input type="checkbox"/> No	<div></div> <div></div> <div></div> <div></div>

Fair and Reasonable Price Determination

FAIR AND REASONABLE PRICE DETERMINATION

I hereby determine the price to be fair and reasonable based on at least one of the following:

Check one or more:

- ☐ Found reasonable on recent purchase.
- ☐ Obtained from current price list.
- ☐ Obtained from current catalog.
- ☐ Commercial market sales price from advertisements.
- ☐ Similar in related industry.
- ☐ Personal knowledge of item procured.
- ☐ Regulated rate (utility).
- ☐ Other.

Comments:

☐ Copy of purchase order, quotes, catalog page, price list, etc. is attached.

Purchasing Agent

Date

SOW Template

Statement of Work Title: [Type text]
1.0 Project Background
<ul style="list-style-type: none">Describe the need for the goods or services, the current environment, and the Transit Agency's key objective(s) as it relates to this requirement. Provide a brief description/summary of the goods or services sought.Short statement of the problem to be resolvedExpected project durationTransit Agency organizational units and/or key individuals involved in managing the projectAlternative solutions or implementation strategies evaluated
<p>a) Transit Agency requires these products and/or services due to:</p> <p>b) Transit Agency is attempting to complete a project on _____ and requires supplier/contractor assistance in the:</p> <p>c) The completion of this work will help Transit Agency:</p>
Statement of Work Title: [Type text]
1.0 Project Background
<p>Describe the need for the goods or services, the current environment, and the Transit Agency's key objective(s) as it relates to this requirement. Provide a brief description/summary of the goods or services sought.</p> <p>Short statement of the problem to be resolved</p> <p>Expected project duration</p> <p>Transit Agency organizational units and/or key individuals involved in managing the project</p> <p>Alternative solutions or implementation strategies evaluated</p> <p>a) Transit Agency requires these products and/or services due to:</p> <p>b) Transit Agency is attempting to complete a project on _____ and requires supplier/contractor assistance in the:</p> <p>c) The completion of this work will help Transit Agency:</p>
2.1 Results
<p>Indicate the key end results that the project will achieve when successfully executed. Measurable performance indicators for anticipated benefits may also be listed here.</p>

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

2.2 Anticipated Benefits
Describe what the organization will gain through completion of this project.
2.3 Business Processes Impacted
Review major changes in the way work will be conducted once the project is complete (if any).
2.4 Customers / End Users Impacted
Identify the specific individuals or groups whose work will be most affected during and after the project's execution.
3.0 Applicable Documents
List legal, regulatory, policy, security, and similar relevant documents. Include publication number, title, version, date and where the document can be obtained. If only certain portions of documents apply, state this. Indicate the definition of terms, if needed.

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

<p>List any publications, manuals, and regulations that the supplier / contractor must abide by:</p> <p>a) [Type text]</p> <p>b) [Type text]</p> <p>c) [Type text]</p> <p>Definitions and Acronyms:</p>	
<p>4.0 Summary of Requirements</p>	
<p>These are the key tasks expected of the supplier / contractor according to the Schedule and the Statement of Work.</p> <p>List the key technical and functional requirements for the project. Highlight up to 20 requirements that you consider to be essential to the ultimate success of the project. Include the expected outputs / outcomes and performance standards.</p>	
<p>Write tasks to be performed in a logical and sequential arrangement of work to the extent possible. Describe the tasks in terms of outcomes expected, such as response time, cleanliness level, equipment up-time and functionality. Use “work” words, such as:</p> <p>1) Review...</p> <p>2) Analyze...</p> <p>3) Repair...</p> <p>4) Install...</p> <p>5) Construct...</p> <p>All tasks should have quantifiable or observable results.</p>	
<p>5.0 Schedule and Deliverables</p>	
<p>List all outputs / outcomes and submittals with specific due dates or time frames. Include type, quantity and delivery point (s). Include the acceptance criteria for each.</p>	
Milestone or Major Project Deliverable	Planned Completion Date
<p>6.0 Quality Assurance Plan</p>	

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

Explain what the Transit Agency’s quality expectations are, how (and how often) deliverables or services will be monitored and evaluated, and the process to follow when the outputs / outcomes are below performance standards.

The following levels of quality are to be judged acceptable under this contract:

a) All milestones or services will be achieved and all reports will be submitted on time in accordance with Section 5.0 of this SOW.

a) All milestones, services, products or reports will meet the outcomes noted in Section 4.0 of this document.

c) Supplier / Contractor work will be monitored by Transit Agency project and Contract Management Staff.

d) Specific quality requirements for this contract are as follows:

- 1) On time delivery= [Type text]
- 2) Acceptable quality = [Type text]
- 3) Responsiveness = [Type text]
- 4) Service Level = [Type text]

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

Sole Source Justification Form

Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:

Check one:

_____ The item is available only from a single source (sole source justification is attached).

_____ The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (documented emergency condition is attached).

_____ FTA authorizes noncompetitive negotiations (letter of authorization is attached).

_____ After solicitation of a number of sources, competition is determined inadequate (record of source contacts is attached).

_____ The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a)(1) that is procured directly from the original manufacturer or supplier of the time to be replaced (price certification attached).

Comments:

_____ Independent Estimate and Cost Analysis are attached.

Purchasing Agent

Senior Manager

Date

Date

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

Cost Analysis Form

PAGE	OF	PGS
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COST ANALYSIS SUMMARY (For New Contracts Including Letter Contracts) (See Instructions below)	
SOLICITATION #	SUPPLIES AND/OR SERVICES TO BE FURNISHED
PREPARER'S NAME, DEPARTMENT, TITLE, PHONE	
DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED	APPROVAL SIGNATURE

DETAIL DESCRIPTION OF COST ELEMENTS

1. DIRECT MATERIAL			Vendor A Proposal	Vendor B Proposal	Independent Estimate	Analysis
A. PURCHASED PARTS						
B. SUBCONTRACTED ITEMS						
C. OTHER - (1) RAW MATERIAL						
(2) STANDARD COMMERCIAL ITEMS						
<i>TOTAL DIRECT MATERIAL</i>						
2. MATERIAL OVERHEAD (RATE % x \$ BASE *)						
3. DIRECT LABOR	ESTIMATED HOURS	RATE/ HOUR	Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
	<i>TOTAL DIRECT LABOR</i>					
4. LABOR OVERHEAD			Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
		OH Rate				
		X BASE (labor total above)				
		<i>TOTAL LABOR OVERHEAD</i>				
5. OTHER DIRECT COSTS			Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
A. SPECIAL TOOLING/EQUIPMENT						
<i>TOTAL SPECIAL TOOLING/EQUIPMENT</i>						
B. TRAVEL						
(1) TRANSPORTATION						
(2) PER DIEM OR SUBSISTENCE						
<i>TOTAL TRAVEL</i>						

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

DETAIL DESCRIPTION OF COST ELEMENTS (continued)	Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
C. INDIVIDUAL CONSULTANT SERVICES				
TOTAL INDIVIDUAL CONSULTANT SERVICES				
D. OTHER				
TOTAL OTHER				
E. SUBTOTAL DIRECT COST AND OVERHEAD				
6. GENERAL AND ADMINISTRATIVE (G&A) RATE %				
X \$ BASE (Use 5.E above)				
7. ROYALTIES (if any)				
8.SUBTOTAL ESTIMATED COST				
9. CONTRACT FACILITIES CAPITAL AND COST OF MONEY				
10. SUBTOTAL ESTIMATED COST				
11. FEE OR PROFIT				
12.TOTAL ESTIMATED COST AND FEE OR PROFIT				
13. Discounts				
14. Option Costs (specify)				
15. ADJUSTED COST				

ANALYSIS GUIDELINES

1. DIRECT MATERIAL

- A. Analyze Purchased Parts: Provide a consolidated price analysis of material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.).
- B. Subcontracted Items: Analyze the total cost of subcontract effort and supporting written quotations from the prospective subcontractors
- C. Other:

(1) Raw Material: Review any materials in a form or state that requires further processing. Analyze priced quantities of items required for the proposal. Consider alternatives and total cost impact.

(2) Standard Commercial Items: Analyze proposed items that the offeror will provide, in whole or in part, and review the basis for pricing. Consider whether these could be provided at lower cost from another source.

2. MATERIAL OVERHEAD

Verify that this cost is not computed as part of labor overhead (item 4) or General and Administrative (G&A) (Item 6).

3. DIRECT LABOR

Analyze the hourly rate and the total hours for each individual (if known) and discipline of direct labor proposed. Determine whether actual rates or escalated rates are used . If escalation is included, analyze the degree (percent) and rationale used. Compare percentage of total that labor represents for each bid.

4. LABOR OVERHEAD

Analyze comparative rates and ensure these costs are not computed as part of G&A. Determine if Government Audited rates are available,

5. OTHER DIRECT COSTS

- A. Special Tooling/Equipment. Analyze price and necessity of specific equipment and unit prices.
- B. Travel. Analyze each trip proposed and the persons (or disciplines) designated to make each trip. Compare and check costs.
- C. Individual Consultant Services. Analyze the proposed contemplated consulting. Compare to independent estimate of the amount of services estimated to be required and match the consultants' quoted daily or hourly rate to known benchmarks.
- D. Other Costs. Review all other direct charge costs not otherwise included in the categories described above (e.g., services of specialized trades, computer services, preservation, packaging and packing, leasing of equipment and provide bases for pricing. Scan for duplication or omissions.

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

6. GENERAL AND ADMINISTRATIVE EXPENSE

See notes on labor overhead above and check whether the base has been approved by a Government audit agency for use in proposals.

7. ROYALTIES

If more than \$250, analyze the following information for each separate royalty or license fee; name and address of licensor; date of license agreement; patent numbers, patent application serial numbers, or other basis on which the royalty is payable; brief description (including any part of model numbers or each contract item or component on which the royalty is payable); percentage or dollar rate of royalty per unit; unit price of contract item; number of units; and total dollar amount of royalties,

8. SUBTOTAL ESTIMATED COST

Compare the total of all direct and indirect costs excluding Cost of Money and Fee or Profit. Note reasons for differences.

9. CONTRACT FACILITIES CAPITAL AND COST OF MONEY

Analyze the offerors' supporting calculations and compare to known standards.

10. SUBTOTAL ESTIMATED COST

This is the total of all proposed costs excluding Fee or Profit. Determine the competitive range. Question outliers.

11. FEE OR PROFIT

Review the total of all proposed Fees or Profit.

12. TOTAL ESTIMATED COST AND FEE OR PROFIT

Analyze the range of total estimated costs including Fee or Profit, and explain variance to independent estimate. Identify areas for negotiation or areas to be challenged. Explain your conclusions regarding fair and reasonable pricing.

13. DISCOUNTS

Review basis for Discounts and range between offers.

ATTACH NARRATIVE COST ANALYSIS MEMO ADDRESSING ITEMS AS INSTRUCTED ABOVE.

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

Price Analysis

PO / Contract: _____

The evidence compiled by a price analysis includes:

- Developing and examining data from multiple sources whenever possible that prove or strongly suggest the proposed price is fair.
- Determining when multiple data consistently indicate that a given price represents a good value for the money.
- Documenting data sufficiently to convince a third party that the analyst’s conclusions are valid.

The pricing quoted on the attached sheet(s) is deemed to be fair and reasonable based on the following type of analysis:

_____ Comparison with competing suppliers’ prices or catalog pricing for the same item. (Complete comparison matrix and attach supporting quotes or catalog pages.)

_____ Comparison of proposed pricing with in-house estimate for the same item. (Attach signed in-house estimate and explain factors influencing any differences found. Complete summary matrix.)

_____ Comparison of proposed pricing with historical pricing from previous purchases of the same item, coupled with market data such as Producer Price Index or Inflation Rate over the corresponding time period. (Attach data and historical price record).

_____ Analysis of price components against current published standards, such as labor rates, dollars per pound etc. to justify the price reasonableness of the whole. (Attach analysis to support conclusions drawn.)

SUMMARY MATRIX

Item	Proposed Pricing	Average Market Price	Competitor A	Competitor B	In-House Estimate	Other

DATE: _____ PREPARED BY: _____

Attachments:

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

Procurement Summary

PROCUREMENT MEMORANDUM

Date: _____ Completed by: _____
PO / Contract No. _____
Source of Funding: _____

Method of Procurement

Micro Purchase: _____ Competitive RFP: _____ Competitive Bid: _____
Small Purchase: _____ A&E Services: _____ Sole Source: _____

Justification if Non-Competitive:

Reason for the Procurement

Contract Type: _____
Rationale for contract type: _____

Reason for Contractor selection or rejection: _____ Lowest responsive, responsible bidder: _____
Evaluation results were: _____

Basis for Contract Price:

Accepted contractor's proposed pricing: _____
Negotiated Price (attached memorandum) _____
Other: _____

Cost / Price Analysis:

The price offered by the supplier was within ____% of the independent estimate, and variance between the offerors constituted a range of _____. The competitive range was determined to be from \$ _____
Pricing discrepancies between the offers was attributed to _____
Other sources/data used to affirm price reasonableness were _____

Summary of Responsibility and Responsiveness Checks

Award Date of contract award: _____
Board Approval (Attach Meeting Minutes): _____

Change Orders

Identify each and summarize reason for change, dates, cost analysis, time impact, and modification number.

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION PROCUREMENTS

Procurement Decision Matrix

<u>Micro-purchase</u>		<u>Competitive Procurement</u>		<u>Sole Source</u>	
Amount < \$3,000	<input type="checkbox"/>	Amount > \$3,000	<input type="checkbox"/>	Approved by FTA	<input type="checkbox"/>
Multiple Sources	<input type="checkbox"/>	Multiple Sources	<input type="checkbox"/>	OEM, Custom Item OR	<input type="checkbox"/>
		Not an Emergency	<input type="checkbox"/>	Only One Source OR Competition Inadequate after Solicitation OR Emergency/Public Exigency	<input type="checkbox"/>
		<i>Small Purchase</i>			
		Amount < \$100,000	<input type="checkbox"/>		
		Complete and Adequate Specification or Description	<input type="checkbox"/>		
		Two or more quotes available	<input type="checkbox"/>		
		<i>Sealed Bid (IFBs)</i>		<u>Type of Contract</u>	
		Complete and Adequate Specification or Description	<input type="checkbox"/>	Fixed price	<input type="checkbox"/>
		Two or more responsible bidders willing to compete	<input type="checkbox"/>	Firm fixed unit prices	<input type="checkbox"/>
		Selection can be made on the basis of price alone	<input type="checkbox"/>	Cost plus fixed fee	<input type="checkbox"/>
		Firm Fixed Price Contract	<input type="checkbox"/>	Time and materials	<input type="checkbox"/>
		No discussion with bidders required after receipt of bids	<input type="checkbox"/>	Blanket purchase order	<input type="checkbox"/>
				Indefinite Delivery	<input type="checkbox"/>
				Indefinite Quantity (IDIQ)	<input type="checkbox"/>
		<i>Competitive Proposals (RFPs)</i>			
		Complete Specifications Not Feasible	<input type="checkbox"/>		
		Bidder Input Needed	<input type="checkbox"/>		
		Two or more responsible bidders willing to compete	<input type="checkbox"/>		
		Discussion needed with bidders after proposals	<input type="checkbox"/>		
		Fixed price can be set after discussions OR	<input type="checkbox"/>		

Change Order Review Checklist

Date	
Contract Number	
Contractor	
Contract Title	
Reviewer	
New Contract Total	
Change Order Number	
Dollar Value Increase	
Length of Time Extension Granted	
New Performance Period End Date	

Change Order Checklist	INCLUDED			Comment
			N/A	
1. In-House Estimate Prepared				
2. Project Manager Approval				
3. AWO Scope Meeting Held				
3a. Scope of Change Adequate for Bidding				
4. Contractor Proposal Includes Impact Costs, Price				
5. Cost Analysis Conducted				
5a. If Price>10% of ICE, Evidence of MTA President Approval				
6. Negotiation Memorandum				
7. Written Record of Change				
7a. Signed Change Order in File				
8. Evidence of Board Approval Prior Initiation of Changed Work				
9. Notice to Proceed in file				
10. Work Authorized within Contract Scope				
11. No Evidence of Arbitrary Action				
Other Comment				

Piggybacking Checklist

Definition: *Piggybacking is the post-award use of a contractual document/process that allows someone who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process. ("FTA Dear Colleague" letter, October 1, 1998).*

In order to assist in the performance of your review, to determine if a situation exists where you may be able to participate in the piggybacking (assignment) of an existing agreement, the following considerations are provided. Ensure that your final file includes documentation substantiating your determination.

WORKSHEET	YES	NO
1. Have you obtained a copy of the contract and the solicitation document, including the specifications and any Buy America Pre-award or Post- Delivery audits?		
2. Does the solicitation and contract contain an express "assignability" clause that provides for the assignment of all or part of the specified deliverables?		
3. Did the Contractor submit the "certifications" required by Federal regulations? See BPPM Section 4.3.3.2.		
4. Does the contract contain the clauses required by Federal regulations? See BPPM Appendix A1.		
5. Were the piggybacking quantities included in the original solicitation; i.e., were they in the original bid and were they evaluated as part of the contract award decision?		
6. If this is an indefinite quantity contract, did the original solicitation and resultant contract contain both a minimum and maximum quantity, and did these represent the reasonably foreseeable needs of the parties to the contract?		
7. If this piggybacking action represents the exercise of an option in the contract, is the option provision still valid or has it expired?		
8. Does your State law allow for the procedures used by the original contracting agency: e.g., negotiations vs. sealed bids?		
9. Was a cost or price analysis performed by the original contracting agency documenting the reasonableness of the price? Obtain a copy for your files. Have you performed a market analysis of the prices to be paid and have you determined the price to be fair and reasonable and in the best interests of the Agency?		
10. If the contract is for rolling stock or replacement parts, does the contract term comply with the five-year term limit established by FTA? See FTA Circular 4220.1F, Chapter IV, 2 (14) (i).		
11. Was there a proper evaluation of the bids or proposals? Include a copy of the analysis in your files.		
12. If you will require changes to the vehicles (deliverables), are they "within the scope" of the contract or are they "cardinal changes"? See BPPM Section 9.2.1.		

Note: This worksheet is based upon the policies and guidance expressed in (a) the FTA Administrator's "Dear Colleague" letter of October 1, 1998, (b) the *Best Practices Procurement Manual*, Section 6.3.3— *Joint Procurements of Rolling Stock and "Piggybacking,"*

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION
PROCUREMENTS

Contract Clause Matrix

APPLICABILITY OF THIRD PARTY CONTRACT PROVISIONS

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchases	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.
Civil Rights (Title VI, EEO, ADA)	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$100,000	>\$100,000	>\$100,000
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			For property transported by ocean vessel.	For property transported by ocean vessel.	For property transported by ocean vessel.
Fly America	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.

CITY OF MURFREESBORO FEDERAL TRANSIT ADMINISTRATION
PROCUREMENTS

PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchases	Construction	Materials & Supplies
Davis-Bacon Act				>\$2,000 (including ferry vessels)	
Contract Work Hours and Safety Standards Act		>\$100,000 (except transportation services)	>\$100,000	>\$100,000 (including ferry vessels)	
Copeland Anti-Kickback Act Section 1 Section 2				All All exceeding \$2,000 (including ferry vessels)	
Bonding				\$100,000	
Seismic Safety	A&E for New Buildings & Additions			New Buildings	
Transit Employee Protective Arrangements		Transit Operations			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit Operations			
Alcohol Misuse and Testing		Transit Operations			
Patent Rights	Research & Development				
Rights in Data and Copyright Requirements	Research & Development				
Energy Conservation	All	All	All	All	All
Recycled Products		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year
Conformance with ITS National Architecture	ITS Projects	ITS Projects	ITS Projects	ITS Projects	ITS Projects
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States	Limited to States	Limited to States	Limited to States	Limited to States

